

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 910 of 1997

to

FIRST APPEAL No 924 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE M.H.KADRI

1. Whether Reporters of Local Papers may be allowed to see the judgements? No

2. To be referred to the Reporter or n

No

3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

No

5. Whether it is to be circulated to the Civil Judge?

No

SPL. LAQ OFFICER

Versus

BHARATBHAI NANABHAI

Appearance:

Mr. B.Y. Mankad AGP for Appellants

Mr. K.M. Sheth for Respondent No. 1

Date of Decision: 08-05-1997

COMMON ORAL JUDGMENT : (Per: M.H. Kadri, J.)

Appellants have filed these appeals under Section

54 of the Land Acquisition Act, 1894 ('Act' for short), read with Section 96 of the Code of Civil Procedure, 1908, challenging the common judgment and award dated January 29, 1996, passed by the learned Assistant Judge, Panchmahals, at Godhra, in the group of Land Reference Cases Nos. 57 to 71 of 1989.

Lands of the respondents-claimants situated at village Rameshara, Taluka Halol, District Panchmahals, came to be acquired for the purpose of construction of main canal of Narmada Project, by notification under Section 4 of the Act, which was published in the government gazette on January 3, 1985. After following the necessary procedure under the Act, the Land Acquisition Officer has awarded compensation for the acquired lands to the claimants at the rate of Rs.1.30 ps. per sq.mtr. The Land Acquisition Officer has also awarded severance charges to the claimants.

The respondents-claimants, feeling aggrieved by the said award, filed applications under Section 18 of the Act before the Collector, Panchmahals. The said applications were referred to the District Court, at Panchmahals, which were numbered as Land Acquisition Reference Nos.57 to 71 of 1989. The above stated land acquisition references came to be transferred to the court of the learned Extra Assistant Judge, Panchmahals, at Godhra.

Before the reference court, the claimants examined Prabhatsinh Dhulabhai Parmar at Exh.30. The claimants produced certified copy of judgment and award (Exh.50) of the District Court, Panchmahals, at Godhra, rendered in Land Reference Case No. 129 of 1989 and allied matters, which was related to the acquisition of the lands of village Rameshara. By award Exh.50, market price of the land of village Rameshara was determined by the reference court at Rs.11.30 ps per sq.mtr. Notification under Section 4(1) of the Act with respect to land which was subject matter of award Exh.50 was published on January 11, 1985. It must be stated that the award Exh.50 was challenged in this Court by the appellant by way of filing First Appeals Nos. 1709 to 1724 of 1994. The said First Appeals came to be partly allowed by the Division Bench of this Court (Coram: B.N. Kripal, C.J., & A.N. Divecha, J. {as they then were}) by judgment and order dated February 6, 1995, whereby the market price determined by the reference court was reduced and was fixed at Rs.8 per sq.mtr. The reference court in fixing the market price of the acquired land in the present references by the impugned judgment and award

had fixed the market price at Rs.8/- per sq.mtr. In view of the decision of the Division Bench of this Court fixing market price at Rs.8/- per sq.mtr. in respect of the land of the same village, we are of the opinion that no error is committed by the reference court in fixing the market price at Rs.8/- per sq.mtr. for the acquired lands. It must be stated that notifications in the above group of First Appeals and in the present group of First Appeals were issued in near proximity of time. While determining the compensation of the acquired lands, one of the modes is the awards of the earlier reference cases which are the relevant piece of evidence, if the lands are comparable and the notifications in question are issued in near proximity of time. In the earlier award Exh.50, notification was issued on January 11, 1985, whereas in the present references, notification was issued on January 3, 1985 and, therefore, the reference court was justified in relying upon the judgment and award of the Division Bench of this Court in First Appeals Nos. 1709 of 1994 and allied matters in determining the market price of the acquired lands.

For the foregoing reasons, we do not find any merit in these appeals and they are summarily dismissed.

(swamy)